

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
                              )  
                              )  
                              )  
v.                          )    CRIMINAL NO. 04-10176-RWZ  
                              )  
                              )  
ITZA RUIZ,                )  
a/k/a ITZA GALVAN SANTOS, )  
and HERIBERTO RUIZ,      )  
                              )  
                              )  
Defendants.              )

MOTION OF THE UNITED STATES TO  
VACATE PRELIMINARY ORDER OF FORFEITURE

The United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby moves that this Court vacate the Preliminary Order of Forfeiture issued by the District Court against defendants Itza Ruiz, a/k/a Itza Galvan Santos, and Heriberto Ruiz, (collectively referred to as the "Defendants") on or about April 28, 2005. As grounds therefore, the government states the following:

1. On or about April 4, 2005, the Defendants entered a plea of guilty to all Counts of the Indictment in which they are named, and the parties agreed that the Defendants would forfeit the real property and buildings located at 226 Essex Street, Saugus, Massachusetts, recorded in the Essex County Registry of Deeds at Book 2226, Page 166 (the "Defendant Property"), or substitute assets, in a value up to the value of not less than \$318,250.00, to the United States.

2. On or about April 28, 2005, the District Court issued a

Preliminary Order of Forfeiture against the Defendants' interests in the Defendant Property, pursuant to 21 U.S.C. §853, as incorporated by 18 U.S.C. §982.

3. In the meantime, however, the parties agreed that Defendant Heriberto Ruiz would be allowed to complete a closing on the sale of the Defendant Property through a private real estate broker. Defendant Heriberto Ruiz would then apply the proceeds of the sale of the Defendant Property to the outstanding balance on the loan issued by Countrywide Home Loans, which holds a mortgage lien on the Defendant Property, and the net proceeds from the sale of the Defendant Property were then to be held in escrow pending resolution of the criminal case.

4. The United States submits that the Defendant Property has been sold and the sale proceeds have been applied to the outstanding balance on the loan issued by Countrywide Home Loans. Based on the high mortgage lien held against the Defendant Property, however, there are no net proceeds remaining to be held in escrow for forfeiture, and the Defendants do not hold any additional assets that could be applied toward the forfeiture Order.

WHEREFORE, the United States respectfully moves that this Court enter an Order to Vacate the Preliminary Order of Forfeiture, in the form submitted herewith.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney,

BY: /s/ Jennifer H. Zacks  
ANTOINETTE E.M. LEONEY  
JENNIFER H. ZACKS  
Assistant U.S. Attorneys  
United States Courthouse  
Suite 9200  
1 Courthouse Way  
Boston, MA 02210  
(617) 748-3100

Date: September 8, 2005

CERTIFICATE OF SERVICE

I certify that I have served a true copy of the foregoing Motion of the United States to Vacate Preliminary Order of Forfeiture, as well as a Proposed Order to Vacate Preliminary Order of Forfeiture, upon Catherine K. Byrne, Esquire, Federal Defender's Office, 408 Atlantic Avenue, Third Floor, Suite 328, Boston, Massachusetts 02210, as counsel for Defendant Itza Ruiz, a/k/a Itza Galvan Santos, and Stephen A. Jonas, Esquire, Daniel R. Margolis, Esquire, and Sarah E. Ragland, Esquire, Wilmer Cutler Pickering Hale and Dorr LLP, 60 State Street, Boston, Massachusetts 02109, as counsel for Defendant Heriberto Ruiz, by first class mail, postage prepaid.

/s/ Jennifer H. Zacks  
Jennifer H. Zacks  
Assistant U.S. Attorney

Date: September 8, 2005